IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.13024 of 2025
& W.M.P.No.14528 of 2025

M/s.RKG Travels,
Rep by its Partner, Muthu Prabhakaran,
No.50, Karuvampalayam Extn,
2nd Street, ABT Road, Tiruppur 641 604

... Petitioner

Vs.

The Deputy Commissioner GST and Central Excise,
Office of the Deputy Commissioner GST and Central Excise,
Tiruppur Division, 2nd Floor,
51, Elementary School Street,
Kumar Nagar, Tiruppur 641 603

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records and quash the order in original passed by the respondent bearing DIN 20221159XM000000A43A dated 30.11.2022 and forbear the respondent from taking any recovery measures pursuant to the order in original passed by the respondent bearing DIN 20221159XM000000A43A dated 30.11.2022

For Petitioner : Mr.I.M.Siddartha Ramarajan

For Respondent : Mr.K.S.Ramaswamy,
Senior Standing counsel

ORDER

This writ petition has been filed challenging the impugned order dated 30.11.2022 passed by the respondent.

2. Mr.K.S.Ramaswamy, learned Senior Standing counsel, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that initially, the show cause notice was issued by the respondent on 13.10.2021 and thereafter, the reminder notices for personal hearing were issued on 13.10.2022 & 28.10.2022. At the same time, due to some health issues, the petitioner's mother was admitted at the Hospital and hence, the petitioner, being unaware of the said notices, had failed to file their reply within the time. Under these circumstances, the impugned

order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Senior Standing counsel appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondent and also perused the materials available on record.

7. In the case on hand, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 30.11.2022 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 30.11.2022 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondent within a period of four weeks from today (09.04.2025) and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

09.04.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

The Deputy Commissioner GST and Central Excise,
Office of the Deputy Commissioner GST and Central Excise,
Tiruppur Division, 2nd Floor,
51, Elementary School Street,
Kumar Nagar, Tiruppur 641 603

KRISHNAN RAMASAMY.J.,

nsa

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